IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1049 of 1986
With
CROSS OBJECTION No. 48 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VALI MOHMED HANSIBHAI & 2 - Appellant(s)
Versus
SHARDABEN WIDOW OF SOMAJI KHUMAJI - Defendant(s)

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Appearance :
MR RAJNI H MEHTA for Appellant(s) : 1 - 3.
MR RR SHAH for Defendant(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 03/07/2007

ORAL JUDGMENT

1. Heard Mr.Rajni R.Mehta, learned counsel for the appellants and Mr.R.R. Shah, learned counsel for the

respondents.

2. For the reasons recorded in First Appeal No.554 of 1984, decided on 2/5/2007, I hold that the appeal at the instance of the driver, owner and Insurance Company would not be maintainable. The appeal can be made maintainable only if the Insurance Company is transposed as party respondent.
3. In the present case, the Insurance Company continues to be on the records. After the transposition of the Insurance Company, in the opinion of this Court, the appeal would not survive, because, the appellants – owner and driver are not to suffer any monetary liability. In each of the case, the appeal being not maintainable, the respondent would not be entitled to file Cross Objection for enhancement of the amount. The Cross Objections are also held to be not maintainable.
4. The appeal so also the Cross Objections, are hereby dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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